

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

U

D

BILL DRAFT 2007-RBxz-34 [v.5] (03/31)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/2/2008 8:24:47 AM**

Short Title: Motor Fuel Tax Law Changes.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED
AN ACT TO MAKE CHANGES TO THE MOTOR FUEL TAX LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-449.37 reads as rewritten:

"§ 105-449.37. Definitions; tax liability.

(a) Definitions. – The following definitions apply in this Article:

- (1) Decal. – An identification marker issued by the Secretary under G.S. 105-449.47 for a qualified motor vehicle.
- (2) Reserved.
- (3) Motor carrier. – A person who operates or causes to be operated on any highway in this State a motor vehicle that is a qualified motor vehicle. The term does not include the United States, a state, or a political subdivision of a state.
- (4) Motor vehicle. – A motor vehicle as defined in G.S. 105-164.3 other than special mobile equipment as defined in G.S. 105-164.3.
- (5) Operations. –The movement of any motor vehicle by a motor carrier, whether loaded or empty and whether or not operated for compensation.
- (6) Person. – Defined in G.S. 105-228.90.
- (7) Qualified motor vehicle. – A motor vehicle used, designed, or maintained for transportation of persons or property that meets one or more of the following conditions:
 - a. Has two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds.
 - b. Has three or more axles, regardless of weight.

- 1 c. Has a gross vehicle weight or registered gross vehicle weight
2 exceeding 26,000 pounds when it is combined with another
3 motor vehicle. The term does not include a recreational vehicle.
4 (8) Recreational vehicle. – Defined in G.S. 20-4.01.(9) Secretary. –
5 Defined in G.S. 105-228.90.
6 (b) Liability. – A motor carrier who operates on one or more days of a reporting
7 period is liable for the tax imposed by this Article for that reporting period and is
8 entitled to the credits allowed for that reporting period."

9 **SECTION 2.** G.S. 105-449.37(a), as amended by Section 1 of this act, reads
10 as rewritten:

11 "(a) Definitions. – The following definitions apply in this Article:

- 12 (1) Decal. – An identification marker issued by the Secretary under G.S.
13 105-449.47 for a qualified motor vehicle.
14 (2) Moped. – Defined in G.S. 105-164.3.
15 (3) Motor carrier. – A person who operates or causes to be operated on
16 any highway in this State a motor vehicle that is a qualified motor
17 vehicle. The term does not include the United States, a state, or a
18 political subdivision of a state.
19 (4) Motor vehicle. – A self-propelled motor vehicle that is designed
20 primarily for use upon the highways, but does not include:
21 a. A moped, as defined in G.S. 105-164.3.
22 b. A farm tractor or other implement of husbandry.
23 c. Road construction or road maintenance machinery or
24 equipment.
25 (5) Operations. –The movement of any motor vehicle by a motor carrier,
26 whether loaded or empty and whether or not operated for
27 compensation.
28 (6) Person. – Defined in G.S. 105-228.90.
29 (7) Qualified motor vehicle. – A motor vehicle used, designed, or
30 maintained for transportation of persons or property that meets one or
31 more of the following conditions:
32 a. Has two axles and a gross vehicle weight or registered gross
33 vehicle weight exceeding 26,000 pounds.
34 b. Has three or more axles, regardless of weight.
35 c. Has a gross vehicle weight or registered gross vehicle weight
36 exceeding 26,000 pounds when it is combined with another
37 motor vehicle. The term does not include a recreational vehicle.
38 (8) Recreational vehicle. – Defined in G.S. 20-4.01.(9) Secretary. –
39 Defined in G.S. 105-228.90."

40 **SECTION 3.** G.S. 105-449.38 reads as rewritten:

41 "**§ 105-449.38. Tax levied.**

42 A road tax for the privilege of using the streets and highways of this State is imposed
43 upon every motor carrier on the amount of motor fuel or alternative fuel used by the
44 carrier in its operations within this State. The tax shall be at the rate established by the

Secretary pursuant to G.S. 105-449.80 or G.S. 105-449.136, as appropriate. This tax is in addition to any other taxes imposed on motor carriers."

SECTION 4. G.S. 105-449.44 reads as rewritten:

"§ 105-449.44. How to determine the amount of fuel used in the State; presumption of amount used.

(a) Calculation. – The amount of motor fuel or alternative fuel a motor carrier uses in its operations in this State for a reporting period is the number of miles the motor carrier travels in this State during that period divided by the calculated miles per gallon for the motor carrier for all qualified vehicles during that period.

(b) Presumption. – The Secretary must check reports filed under this Article against the weigh station records and other records of the Division of Motor Vehicles of the Department of Transportation and the State Highway Patrol of the Department of Crime Control and Public Safety concerning motor carriers to determine if motor carriers that are operating in this State are filing the reports required by this Article. The Department may assess a motor carrier for the amount payable based on the presumed mileage of a motor carrier that meets one or more of the two requirements of this subsection. The presumed mileage of the motor carrier is equal to 10 trips of 450 miles for each of the motor carrier's vehicles and the presumed fuel usage of each vehicle is four miles per gallon. A motor carrier that does either of the following for a quarter is presumed to have traveled in this State during that quarter:

(1) Fails to file a report for the quarter and the records of the Division indicate the carrier operated in this State during the quarter.

(2) Files a report for the quarter that, based on the records of the Division, understates by at least twenty-five percent (25%) the carrier's mileage in this State for the quarter.

(c) Vehicles. – The number of vehicles of a motor carrier that is registered under this Article is the number of decals issued to the carrier. The number of vehicles of a carrier that is not registered under this Article is the number of vehicles registered by the motor carrier in the carrier's base state under the International Registration Plan."

SECTION 5. G.S. 105-449.46 reads as rewritten:

"§ 105-449.46. Inspection of books and records.

The Secretary and his authorized agents and representatives shall have the right at any reasonable time to inspect the books and records of any motor carrier subject to the tax imposed by this Article or to the registration fee imposed by Article 3 of Chapter 20 of the General Statutes. In the event a motor carrier fails to maintain adequate records from which the licensee's true liability may be determined, the Secretary may conduct an examination based on the best information available."

SECTION 6. G.S. 105-449.47 reads as rewritten:

"§ 105-449.47. Registration of vehicles.

(a) Requirement. – A motor carrier that is subject to the International Fuel Tax Agreement may not operate or cause to be operated in this State any vehicle listed in the definition of motor vehicle unless both the motor carrier and at least one motor vehicle are registered with the motor carrier's base state jurisdiction. A motor carrier that is not subject to the International Fuel Tax Agreement may not operate or cause to

1 be operated in this State any vehicle listed in the definition of motor vehicle unless both
2 the motor carrier and at least one motor vehicle are registered with the Secretary for
3 purposes of the tax imposed by this Article.

4 (a1) Registration and Decal.— When the Secretary registers a motor carrier, the
5 Secretary must issue at least one set of decals for each motor vehicle operated by the
6 motor carrier. The Secretary may charge a fee to cover the costs of the decals. A motor
7 carrier must keep records of decals issued to it and must be able to account for all decals
8 it receives from the Secretary. Registrations and decals issued by the Secretary are for a
9 calendar year. All decals issued by the Secretary remain the property of the State. The
10 Secretary may revoke a registration or a decal when a motor carrier fails to comply with
11 this Article or Article 36C or 36D of this Subchapter.

12 A motor carrier must carry a copy of its registration in each motor vehicle operated
13 by the motor carrier when the vehicle is in this State. A motor vehicle must clearly
14 display one decal on each side of the motor vehicle at all times. The decals must be
15 affixed to the vehicle for which it was issued in the place and manner designated by the
16 authority that issued it. The decals must be in the form and content as prescribed by the
17 Secretary.

18 (b) Exemption. — This section does not apply to the operation of a vehicle that is
19 registered in another state and is operated temporarily in this State by a public utility, a
20 governmental or cooperative provider of utility services, or a contractor for one of these
21 entities for the purpose of restoring utility services in an emergency outage."

22 **SECTION 7.** G.S. 105-449.47A reads as rewritten:

23 **"§ 105-449.47A. Reasons why the Secretary can deny an application for a**
24 **registration and decals.**

25 The Secretary may refuse to register and issue a decal to an applicant that has done
26 any of the following:

- 27 (1) Had a registration issued under Chapter 105 or Chapter 119 of the
28 General Statutes cancelled by the Secretary for cause.
- 29 (2) Had a registration issued by another jurisdiction, pursuant to G.S.
30 105-449.57, cancelled for cause.
- 31 (3) Been convicted of fraud or misrepresentation.
- 32 (4) Been convicted of any other offense that indicates that the applicant
33 may not comply with this Article if registered and issued a decal.(5)
34 Failed to remit payment for a tax debt under Chapter 105 or
35 Chapter 119 of the General Statutes. The term "tax debt" has the same
36 meaning as defined in G.S. 105-243.1.
- 37 (6) Failed to file a return due under Chapter 105 or Chapter 119 of the
38 General Statutes."

39 **SECTION 8.** G.S. 105-449.50 reads as rewritten:

40 **"§ 105-449.50. Application forms.**

41 The Secretary shall prepare forms to be used in making applications in accordance
42 with this Article and the applicant shall furnish all information required by such forms. "

43 **SECTION 9.** G.S. 105-449.51 reads as rewritten:

44 **"§ 105-449.51. Violations declared to be misdemeanors.**

Any person who operates or causes to be operated on a highway in this State a motor vehicle that does not carry a registration card as required by this Article, does not properly display a decal as required by this Article, or is not registered in accordance with this Article is guilty of a Class 3 misdemeanor and, upon conviction thereof, shall be fined two hundred dollars (\$200.00). Each day's operation in violation of any provision of this section shall constitute a separate offense."

SECTION 10. G.S. 105-449.52 reads as rewritten:

"§ 105-449.52. Civil penalties applicable to motor carriers.

(a) Penalty. – A motor carrier who does any of the following is subject to a civil penalty:

- (1) Operates in this State or causes to be operated in this State a motor vehicle that either fails to carry the registration card required by this Article or fails to display a decal in accordance with this Article. The amount of the penalty is one hundred dollars (\$100.00).
- (2) Is unable to account for decals the Secretary issues the motor carrier, as required by G.S. 105-449.47. The amount of the penalty is one hundred dollars (\$100.00) for each decal the carrier is unable to account for.
- (3) Displays a decal on a motor vehicle operated by a motor carrier that was not issued to the carrier by the Secretary under G.S. 105-449.47. The amount of the penalty is one thousand dollars (\$1,000) for each decal unlawfully obtained. Both the licensed motor carrier to whom the Secretary issued the identification marker and the motor carrier displaying the unlawfully obtained decal are jointly and severally liable for the penalty under this subdivision.

(a1) Payment. – A penalty imposed under this section is payable to the agency that assessed the penalty. When a motor vehicle is found to be operating without a registration card or a decal or with a decal the Secretary did not issue for the vehicle, the motor vehicle may not be driven for a purpose other than to park the motor vehicle until the penalty imposed under this section is paid unless the officer that imposes the penalty determines that operation of the motor vehicle will not jeopardize collection of the penalty.

(b) Hearing. – The procedure set out in G.S. 105-449.119 for protesting a penalty imposed under Article 36C, Part 6, of this Chapter applies to a penalty imposed under this section."

SECTION 11. G.S. 105-449.60 reads as rewritten:

"§ 105-449.60. Definitions.

The following definitions apply in this Article:

- (1) Additive. – A product, other than motor fuel or dye, that is added or mixed in very small concentration with motor fuel, including fuel system detergent, oxidation inhibitor, gasoline antifreeze, or octane enhancers. Additives become part of the motor fuel.

- (2) Aviation gasoline. – Motor fuel blended or produced specifically for use in aircraft, which has been dyed in accordance with federal regulations, and placed in the supply tank of an aircraft.
- (3) Billed gallons. – Gallons of motor fuel, either gross or net, that are invoiced for payment.
- (4) Biodiesel. – Any fuel or mixture of fuels derived in whole or in part from agricultural products or animal fats or wastes from these products or fats.
- (5) Biodiesel provider. – A person who does any of the following:
 - a. Produces an average of no more than 500,000 gallons of biodiesel per month during a calendar year. A person who produces more than this amount is a refiner.
 - b. Imports biodiesel outside the terminal transfer system by means of a marine vessel, a transport truck, a railroad tank car, or a tank wagon.
- (6) Blend stock. – A product or products, other than additives or dye, that is added, mixed, or blended with fuel, regardless of its classification or use. Blend stock becomes part of the taxable volume of the fuel.
- (7) Blended fuel. – A mixture composed of gasoline or diesel fuel and another liquid, other than a de minimus amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle.
- (8) Blender. – A person who produces blended fuel outside the terminal transfer system.
- (9) Bonded importer. – A person, other than a supplier, who imports by transport truck or another means of transfer outside the terminal transfer system motor fuel removed from a terminal located in another state in one or more of the following circumstances:
 - a. The state from which the fuel is imported does not require the seller of the fuel to collect motor fuel tax on the removal of the fuel at that state's rate or the rate of the destination state.
 - b. The supplier of the fuel is not an elective supplier.
 - c. The supplier of the fuel is not a permissive supplier.
- (10) Bulk. – Motor fuel stored in tanks or containers that are not part of the fuel tank of a motor vehicle, engine, machine, or equipment.
- (11) Bulk end-user. – A person who maintains storage facilities for motor fuel and uses part or all of the stored fuel to operate a highway vehicle, engine, machinery, or equipment.
- (12) Bulk plant. – A motor fuel storage and distribution facility that is not a terminal and from which motor fuel may be removed at a rack.
- (13) Code. – Defined in G.S. 105-228.90.
- (14) Consignee. – The person to whom motor fuel is shipped or delivered.
- (15) Consignor. – The person who ships or delivers motor fuel.

- (16) Destination state. – The state, territory, or foreign country to which motor fuel is directed for delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the purpose of resale or use.
- (17) Diesel fuel. – Any liquid, other than gasoline, that is suitable for use as a fuel in a diesel-powered highway vehicle. The term includes biodiesel, fuel oil, heating oil, high-sulfur dyed diesel fuel, and kerosene. The term does not include jet fuel sold to a buyer who is certified to purchase jet fuel under the Code.
- (18) Distributor. – A person who operates a bulk plant where the person has active motor fuel bulk storage and does one or more of the following:
- a. Produces, refines, blends, compounds, or manufactures motor fuel.
 - b. Transports motor fuel into a state or exports motor fuel out of a state.
 - c. Engages in the distribution of motor fuel primarily by tank car or tank truck or both.
- (19) Diversion. – Motor fuel shipped from a terminal to a state other than the destination state as indicated on the original bill of lading.
- (20) Diversion number. – The tracking number assigned by a state to a single transport truck delivery of motor fuel diverted from the original destination state.
- (21) Dyed diesel fuel. – Diesel fuel that meets the dyeing and marking requirements as described by Federal Regulation 26 CFR 48.4082.1.
- (22) Elective supplier. – A supplier that is required to be licensed in this State and that elects to collect the excise tax due this State on motor fuel that is removed by the supplier at a terminal located in another state and has this State as its destination state.
- (23) End-user. – A person who purchases and uses motor fuel to operate a motor vehicle, engine, machine, or equipment.
- (24) Exempt card or code. – A credit card or an access code that enables the person to whom the card or code is issued to buy motor fuel at retail without paying the motor fuel excise tax on the fuel.
- (25) Export. – To obtain motor fuel in this State for sale or other distribution in another state. In applying this definition, motor fuel delivered out-of-state by or for the seller constitutes an export by the seller and motor fuel delivered out-of-state by or for the purchaser constitutes an export by the purchaser.
- (26) Fuel alcohol. – Alcohol, methanol, or fuel grade ethanol.
- (27) Fuel alcohol provider. – A person who does any of the following:
- a. Produces an average of no more than 500,000 gallons of fuel alcohol per month during a calendar year. A person who produces more than this amount is a refiner.

- 1 b. Imports fuel alcohol outside the terminal transfer system by
2 means of a transport truck, a railroad tank car, or a tank wagon.
- 3 (28) Gasohol. – A blended fuel composed of gasoline and fuel grade
4 ethanol.
- 5 (29) Gasoline. – Any of the following:
- 6 a. All products that are commonly or commercially known or sold
7 as gasoline and are suitable for use as a fuel in a highway
8 vehicle, other than products that have an American Society for
9 Testing Materials octane number of less than 75 as determined
10 by the motor method.
- 11 b. A petroleum product component of gasoline, such as naptha,
12 reformate, or toluene.
- 13 c. Gasohol.
- 14 d. Fuel alcohol.
- 15 The term does not include aviation gasoline sold for use in an aircraft
16 motor. "Aviation gasoline" is gasoline that is designed for use in an
17 aircraft motor and is not adapted for use in an ordinary highway
18 vehicle.
- 19 (30) Gross gallons. – The total amount of motor fuel measured in gallons,
20 exclusive of any temperature, pressure, or other adjustments.
- 21 (31) Highway. – Every way or place, of whatever nature is generally open
22 to the use of the public as a matter of right, for the purpose of
23 vehicular travel. The term includes a highway that has been
24 temporarily closed for the purpose of construction, reconstruction,
25 maintenance, or repair.
- 26 (32) Highway vehicle. – A self-propelled vehicle that is designed for use on
27 a highway.
- 28 (33) Import. – To bring motor fuel into this State by any means of
29 conveyance other than in the fuel supply tank of a highway vehicle. In
30 applying this definition, motor fuel delivered into this State from
31 out-of-state by or for the seller constitutes an import by the seller, and
32 motor fuel delivered into this State from out-of-state by or for the
33 purchaser constitutes an import by the purchaser.
- 34 (34) In-State supplier. – Either of the following:
- 35 a. A supplier that is required to have a license and elects not to
36 collect the excise tax due this State on motor fuel that is
37 removed by the supplier at a terminal located in another state
38 and has this State as its destination state.
- 39 b. A supplier that does business only in this State.
- 40 (35) Jet fuel. – A kerosene-based product used for commercial and military
41 turbojet and turboprop aircraft engines that meets the following
42 conditions:

- 1 a. Has a maximum distillation temperature of 400 degrees
2 Fahrenheit at the ten percent (10%) recovery point and a final
3 maximum boiling point of 572 degrees Fahrenheit .
4 b. Meets ASTM Specification D 1655 and Military Specifications
5 MIL-T-5624P and MIL-T-83133D, Grades JP-5 and JP-8.
- 6 (36) Kerosene. – Petroleum oil that is free from water, glue, and suspended
7 matter and that meets the specifications and standards adopted by the
8 Gasoline and Oil Inspection Board.
- 9 (37) Marine vessel. – A ship, boat, or other watercraft used or capable of
10 being usedb to move in or through the waterways of the State.
- 11 (38) Motor fuel. – Gasoline, diesel fuel, and blended fuel.
- 12 (39) Motor fuel rate. – The rate of tax set in G.S. 105-449.80.
- 13 (40) Motor fuel transporter. – A person who transports motor fuel by
14 pipeline, marine vessel, railroad tank car, or transport truck.
- 15 (41) Net gallons. – The amount of motor fuel measured in gallons when
16 corrected to a temperature of 60 degrees Fahrenheit and a pressure of
17 14 7/10 pounds per square inch.
- 18 (42) Occasional importer. – One or more of the following that imports
19 motor fuel by any means outside the terminal transfer system:
- 20 a. A distributor that imports motor fuel on an average basis of no
21 more than once a month during a calendar year.
- 22 b. A bulk user that acquires motor fuel for import from a bulk
23 plant and is not required to be licensed as a bonded importer.
- 24 c. A distributor that imports motor fuel for use in a race car.
- 25 (43) Permissive supplier. – An out-of-state supplier that elects, but is not
26 required, to have a supplier's license under this Article.
- 27 (44) Person. – Defined in G.S. 105-228.90.
- 28 (45) Pipeline. – A fuel distribution system that moves motor fuel, in bulk,
29 through a pipe either from a refinery to a terminal or from a terminal to
30 another terminal.
- 31 (46) Position holder. – The person who holds the inventory position on the
32 motor fuel as reflected on the records of the terminal operator. A
33 person holds the inventory position on the motor fuel when that person
34 has a contract with the terminal operator for the use of storage
35 facilities and terminaling services for fuel at the terminal. The term
36 includes a terminal operator who owns fuel in the terminal.
- 37 (47) Rack. – A mechanism for delivering motor fuel from a refinery, a
38 terminal, or a bulk plant into a transport truck, a railroad tank car, or
39 another means of transfer that is outside the terminal transfer system.
- 40 (48) Refiner. – A person who owns, operates, or controls a refinery. The
41 term includes a person who produces an average of more than 500,000
42 gallons of fuel alcohol or biodiesel a month during a calendar year.
- 43 (49) Refinery. – A facility used to process crude oil, unfinished oils, natural
44 gas liquids, or other hydrocarbons into motor fuel and from which fuel

- 1 may be removed by pipeline or vessel or at a rack. The term does not
2 include a facility that produces only blended fuel or gasohol.
- 3 (50) Removal. – A physical transfer other than by evaporation, loss, or
4 destruction. A physical transfer to a transport truck or another means
5 of conveyance outside the terminal transfer system is complete upon
6 delivery into the means of conveyance.
- 7 (51) Retailer. – A person who maintains storage facilities for motor fuel
8 and who sells or dispenses the fuel at a retail location.
- 9 (52) Secretary. – Defined in G.S. 105-228.90.
- 10 (53) Shipping document. – A document that identifies the name and address
11 of the consignor, consignee, and carrier, date of deliver, product type,
12 quantity, and document number. The term is commonly referred to as a
13 manifest, a bill of lading, or a delivery ticket.
- 14 (54) Shipping document number. – The identifying number from the
15 shipping document issued when motor fuel is loaded or removed at a
16 refiner, terminal, marine vessel, railroad, or bulk plant.
- 17 (55) Special mobile equipment. – Defined in G.S. 105-164.3.
- 18 (56) Supplier. – Any person required to collect and remit tax on motor fuel
19 removed from a refinery or terminal rack. The term includes an
20 elective supplier, a permissive supplier, and an in-State supplier, as
21 well as all of the following:
- 22 a. A position holder or a person who receives motor fuel pursuant
23 to a two-party exchange.
- 24 b. A fuel alcohol provider.
- 25 c. A biodiesel provider.
- 26 d. A refiner.
- 27 (57) System transfer. – Either of the following:
- 28 a. A transfer of motor fuel within the terminal transfer system.
- 29 b. A transfer, by transport truck or railroad tank car, of fuel grade
30 ethanol.
- 31 (58) Tank wagon. – A truck that is not a transport truck and is designed or
32 used to carry at least 1,000 gallons of motor fuel.
- 33 (59) Tank wagon importer. – A person who imports only by means of a
34 tank wagon motor fuel that is removed from a terminal or a bulk plant
35 located in another state.
- 36 (60) Tax. – An inspection or other excise tax on motor fuel and any other
37 fee or charge imposed on motor fuel on a per-gallon basis.
- 38 (61) Terminal. – A motor fuel storage and distribution facility that has been
39 assigned a terminal control number by the Internal Revenue Service, is
40 supplied by pipeline or marine vessel, and from which motor fuel may
41 be removed at a rack.
- 42 (62) Terminal operator. – A person who owns, operates, or otherwise
43 controls a terminal.

- (63) Terminal transfer system. – The motor fuel distribution system consisting of refineries, pipelines, marine vessels, and terminals. The term has the same meaning as "bulk transfer/terminal system" under 26 C.F.R. § 48.4081-1.
- (64) Transmix. – Either of the following:
- a. The buffer or interface between two different products in a pipeline shipment.
 - b. A mix of two different products within a refinery or terminal that results in an off-grade mixture.
- (65) Transport truck. – A tractor trailer combination designed or used to transport motor fuel.
- (66) Trustee. – A person who is licensed as a supplier and who receives tax payments from and on behalf of a licensed distributor or licensed importer for remittance to the Secretary.
- (67) Two-party exchange. – A transaction in which motor fuel is transferred from one licensed supplier to another licensed supplier pursuant to an exchange agreement under which the supplier that is the position holder agrees to deliver motor fuel to the other supplier or the other supplier's customer at the rack of the terminal at which the delivering supplier is the position holder.
- (68) User. – A person who owns or operates a licensed highway vehicle that has a registered gross vehicle weight of at least 10,001 pounds."

SECTION 12. G.S. 105-449.65 reads as rewritten:

"§ 105-449.65. List of persons who must have a license.

(a) License. – A person may not engage in business in this State as any of the following unless the person has a license issued by the Secretary authorizing the person to engage in that business:

- (1) A refiner.
- (2) A supplier.
- (3) A terminal operator.
- (4) An importer.
- (5) An exporter.
- (6) A blender.
- (7) A motor fuel transporter.
- (8) Repealed by Session Laws 1999-438, s. 20, effective August 10, 1999.
- (9) Repealed by Session Laws 1999-438, s. 21, effective August 10, 1999.
- (10) A distributor who purchases motor fuel from an elective or permissive supplier at an out-of-state terminal for import into this State.

(b) Multiple Activity. – A person who is engaged in more than one activity for which a license is required must have a separate license for each activity, unless this subsection provides otherwise. A person who is licensed as a supplier is considered to have a license as a distributor. A person who is licensed as an occasional importer or a tank wagon importer is not required to obtain a separate license as a distributor unless the importer is also purchasing motor fuel, at the terminal rack, from an elective or

1 permissive supplier who is authorized to collect and remit the tax to the State. A person
2 who is licensed as a distributor is not required to obtain a separate license as an importer
3 if the distributor acquires fuel for import only from an elective supplier or a permissive
4 supplier and is not required to obtain a separate license as an exporter. A person who is
5 licensed as a refiner, supplier, distributor, importer, exporter or blender and who
6 transports fuel is considered to be licensed as a motor fuel transporter.

7 (c) Restrictions. – A person who is licensed as a supplier may not transfer motor
8 fuel from a terminal to a marine vessel unless the receiver of the motor fuel is licensed
9 as a supplier."

10 **SECTION 13.** G.S. 105-449.66 reads as rewritten:

11 **"§ 105-449.66. Importer licensing.**

12 An applicant for a license as an importer must indicate on the application the type of
13 importer license sought. A person may not be licensed as more than one type of
14 importer. A bulk end-user that imports motor fuel from a terminal of a supplier that is
15 not an elective or a permissive supplier must be licensed as a bonded importer. A bulk
16 end-user that imports motor fuel from a bulk plant and is not required to be licensed as a
17 bonded importer must be licensed as an occasional importer. A bulk end-user that
18 imports motor fuel only from a terminal of an elective or a permissive supplier is not
19 required to be licensed as an importer."

20 **SECTION 14.** G.S. 105-449.68 reads as rewritten:

21 **"§ 105-449.68. Restrictions on who can get a license as a distributor.**

22 A bulk end-user of motor fuel may not be licensed as a distributor unless the bulk
23 end-user also acquires motor fuel from a supplier or from another distributor for
24 subsequent sale. This restriction does not apply to a bulk end-user that was licensed as a
25 distributor on January 1, 1996. If a distributor license held by a bulk end-user on
26 January 1, 1996, is subsequently cancelled, the bulk end-user is subject to the restriction
27 set in this section."

28 **SECTION 15.** G.S. 105-449.69(c) reads as rewritten:

29 "(c) Federal Certificate. – An applicant for a license as a refiner, a supplier, a
30 terminal operator, or a blender, must have a federal Certificate of Registry that is issued
31 under § 4101 of the Code and authorizes the applicant to enter into federal tax-free
32 transactions in taxable motor fuel in the terminal transfer system. An applicant that is
33 required to have a federal Certificate of Registry must include the registration number
34 of the certificate on the application for a license under this section.

35 An applicant for a license as an importer, an exporter, or a distributor that has a
36 federal Certificate of Registry issued under § 4101 of the Code must include the
37 registration number of the certificate on the application for a license under this section."

38 **SECTION 16 .** G.S. 105-449.70(a) reads as rewritten:

39 "(a) Election. – An applicant for a license as a supplier may elect on the
40 application to collect the excise tax due this State on motor fuel that is removed by the
41 supplier at a terminal located in another state and has this State as its destination state.
42 The Secretary must provide for this election on the application form. A supplier that
43 makes the election allowed by this section is an elective supplier. A supplier that does
44 not make the election allowed by this section is an in-State supplier.

1 A supplier that does not make the election on the application for a supplier's license
2 may make the election later by completing an election form provided by the Secretary.
3 A supplier that does not make the election may not act as an elective supplier for motor
4 fuel that is removed at a terminal in another state and has this State as its destination
5 state."

6 **SECTION 17.** G.S. 105-449.74 reads as rewritten:

7 **"§ 105-449.74. Issuance of license.**

8 Upon approval of an application, the Secretary must issue a license to the applicant.
9 A supplier's license must indicate the category of the supplier. An importer's license
10 must indicate the category of the importer. A license holder must maintain and display a
11 copy of the license issued under this Part in a conspicuous place at each place of
12 business of the license holder. A license is not transferable and remains in effect until
13 surrendered or cancelled."

14 **SECTION 18.** G.S. 105-449.75 reads as rewritten:

15 **"§ 105-449.75. License holder must notify the Secretary of discontinuance of
16 business.**

17 A license holder that stops engaging in this State in the business for which the
18 license was issued must give the Secretary written notice of the change and must
19 surrender the license to the Secretary. The notice must give the date the change takes
20 effect and, if the license holder has transferred the business to another by sale or
21 otherwise, the date of the transfer and the name and address of the person to whom the
22 business is transferred.

23 The license holder is responsible for all taxes for which the license holder is liable
24 under this Article but are not yet due. If the license holder has transferred the business
25 to another and does not give the notice required by this section, the person to whom the
26 license holder has transferred the business is liable for the amount of any tax the license
27 holder owed the State on the date the business was transferred. The liability of the
28 person to whom the business is transferred is limited to the value of the property
29 acquired from the license holder."

30 **SECTION 19.** G.S. 105-449.81 reads as rewritten:

31 **"§ 105-449.81. Excise tax on motor fuel.**

32 An excise tax at the motor fuel rate is imposed on motor fuel that is:

- 33 (1) Removed from a refinery or a terminal and, upon removal, is subject to
34 the federal excise tax imposed by § 4081 of the Code.
- 35 (2) Imported by a system transfer to a refinery or a terminal and, upon
36 importation, is subject to the federal excise tax imposed by § 4081 of
37 the Code.
- 38 (3) Imported by a means of transfer outside the terminal transfer system
39 for sale, use, or storage in this State and would have been subject to
40 the federal excise tax imposed by § 4081 of the Code if it had been
41 removed at a terminal or bulk plant rack in this State instead of
42 imported.
- 43 (3a) Repealed by Session Laws 2007-527, s. 38(a), effective January 1,
44 2008.

- 1 (4) Blended fuel made in this State or imported to this State.
- 2 (5) Transferred within the terminal transfer system and, upon transfer, is
- 3 subject to the federal excise tax imposed by section 4081 of the Code
- 4 or is not registered as a supplier with the State.
- 5 (6) Fuel alcohol or biodiesel, if it meets either of the following
- 6 descriptions:
- 7 a. Is removed from a terminal or another storage and distribution
- 8 facility.
- 9 b. Is imported to this State outside the terminal transfer system."

10 **SECTION 20.** G. S. 105-449.82 reads as rewritten:

11 **"§ 105-449.82. Liability for tax on removals from a refinery or terminal.**

12 (a) Refinery Removal. – The excise tax imposed by G.S. 105-449.81(1) on motor

13 fuel removed from a refinery in this State is payable by the refiner.

14 (b) Terminal System Removal. – The excise tax imposed by G.S. 105-449.81(1)

15 on motor fuel removed by a system transfer from a terminal in this State is payable by

16 the position holder for the fuel. If the position holder is not the terminal operator, the

17 terminal operator is jointly and severally liable for the tax.

18 (c) Terminal Rack Removal. – The excise tax imposed by G.S. 105-449.81(1) on

19 motor fuel removed at a terminal rack in this State is payable by the person that first

20 receives the fuel upon its removal from the terminal. If the motor fuel is removed by an

21 unlicensed distributor, the supplier of the fuel is jointly and severally liable for the tax

22 due on the fuel. If the motor fuel is sold by a person who is not licensed as a supplier,

23 as required by this Article, the terminal operator, the person selling the fuel, and the

24 person removing the fuel are jointly and severally liable for the tax due on the fuel. If

25 the motor fuel removed is not dyed diesel fuel but the shipping document issued for the

26 fuel states that the fuel is dyed diesel fuel, the terminal operator, the supplier, and the

27 person removing the fuel are jointly and severally liable for the tax due on the fuel.

28 If the motor fuel is removed for export by an unlicensed exporter, the exporter is

29 liable for tax on the fuel at the motor fuel rate and at the rate of the destination state.

30 The supplier is liable for the tax at the motor fuel rate when the supplier sells the motor

31 fuel to the unlicensed exporter."

32 **SECTION 21.** G.S. 105-449.83A reads as rewritten:

33 **"§ 105-449.83A. Liability for tax on fuel grade ethanol.**

34 The excise tax imposed by G.S. 105-449.81 on fuel grade ethanol removed from a

35 storage facility located within this State or imported into the State is payable by the fuel

36 alcohol provider. The excise tax imposed by G.S. 105-449.81 on biodiesel removed

37 from a storage facility located within the State or imported into the State is payable by

38 the biodiesel provider."

39 **SECTION 22.** G.S. 105-449.85 reads as rewritten:

40 **"§ 105-449.85. Compensating tax on and liability for unaccounted for motor fuel**

41 **losses at a terminal.**

42 (a) Tax. – An excise tax at the motor fuel rate is imposed annually on

43 unaccounted for motor fuel losses at a terminal that exceed one-half of one percent

44 (0.5%) of the number of net gallons removed from the terminal during the year by a

1 system transfer or at a terminal rack. To determine if this tax applies, the terminal
2 operator of the terminal must determine the difference between the following:

- 3 (1) The amount of motor fuel in inventory at the terminal at the beginning
4 of the year plus the amount of motor fuel received by the terminal
5 during the year.
- 6 (2) The amount of motor fuel in inventory at the terminal at the end of the
7 year plus the amount of motor fuel removed from the terminal during
8 the year.

9 (b) Liability. – The terminal operator whose motor fuel is unaccounted for is
10 liable for the tax imposed by this section and is liable for a penalty equal to the amount
11 of tax payable. Motor fuel received by a terminal operator and not shown on an
12 informational return filed by the terminal operator with the Secretary as having been
13 removed from the terminal is presumed to be unaccounted for product. A terminal
14 operator may establish that motor fuel received at a terminal but not shown on an
15 informational return as having been removed from the terminal was lost or part of a
16 transmix and for which an accounting can be made."

17 **SECTION 23.** G.S. 105-449.86(b) reads as rewritten:

18 (b) Liability. – If the distributor of dyed diesel fuel that is taxable under this
19 section is not liable for the tax imposed by this section, the person that acquires the fuel
20 is liable for the tax. The distributor of dyed diesel fuel that is taxable under this section
21 is liable for the tax imposed by this section in the following circumstances:

- 22 (1) When the person acquiring the dyed diesel fuel has storage facilities
23 for the fuel and is therefore a bulk end-user of the fuel.
- 24 (2) When the person acquired the dyed diesel fuel from a retail outlet of
25 the distributor by using an access card or code indicating that the
26 person's use of the fuel is taxable under this section."

27 **SECTION 24.** G.S. 105-449.87(b) reads as rewritten:

28 "(b) General Liability. – The owner of a highway vehicle that uses motor fuel that
29 is taxable under subdivisions (a)(1) through (a)(3) of this section is liable for the tax. If
30 the highway vehicle that uses the fuel is owned by or leased to a motor carrier, the
31 motor carrier is jointly and severally liable for the tax. If the end seller of motor fuel
32 taxable under this section knew or had reason to know that the motor fuel would be used
33 for a purpose that is taxable under this section, the end seller is jointly and severally
34 liable for the tax. If the Secretary determines that a bulk end-user or retailer used or sold
35 untaxed dyed diesel fuel to operate a highway vehicle when the fuel is dispensed from a
36 storage facility or through a meter marked for nonhighway use, all fuel delivered into
37 that storage facility is presumed to have been used to operate a highway vehicle. An end
38 seller of dyed diesel fuel is considered to have known or had reason to know that the
39 fuel would be used for a purpose that is taxable under this section if the end seller
40 delivered the fuel into a storage facility that was not marked as required by G.S.
41 105-449.123."

42 **SECTION 25.** G.S. 105-449.89 reads as rewritten:

43 **"§ 105-449.89. Removals by out-of-state bulk-end user.**

1 An out-of-state bulk end-user may not remove motor fuel from a terminal in this
2 State for use in the state in which the bulk end-user is located unless the bulk end-user is
3 licensed under this Article as an exporter. An out-of-state bulk end-user that is not
4 licensed under this Article may remove motor fuel from a bulk plant in this State. The
5 out-of-state bulk end-user must be registered as an exporter before a refund may be
6 issued on the exports from the bulk plant."

7 **SECTION 26.** G.S. 105-449.91 reads as rewritten:

8 **"§ 105-449.91. Remittance of tax to supplier.**

9 (a) Distributor. – A distributor must remit tax due on motor fuel removed at a
10 terminal rack to the supplier of the fuel. A licensed distributor has the right to defer the
11 remittance of tax to the supplier, as trustee, until the date the trustee must pay the tax to
12 this State or to another state. The time when an unlicensed distributor must remit tax to
13 a supplier is governed by the terms of the contract between the supplier and the
14 unlicensed distributor.

15 (b) Exporter. – A licensed exporter must remit tax due on motor fuel removed at a
16 terminal rack to the supplier of the fuel. The time when an exporter must remit tax to a
17 supplier is governed by the law of the destination state of the exported motor fuel.

18 (c) Importer. – A licensed importer must remit tax due on motor fuel removed at
19 a terminal rack of a permissive or an elective supplier to the supplier of the fuel. A
20 licensed importer that removes fuel from a terminal rack of a permissive or an elective
21 supplier has the right to defer the remittance of tax to the supplier until the date the
22 supplier must pay the tax to this State.

23 (d) Retailer. – A retailer must remit tax due on motor fuel removed at a terminal
24 rack to the supplier of the fuel. The time when a retailer must tax to a supplier is
25 governed by the terms of the contract between the supplier and the retailer.

26 (e) Bulk End-User. – A bulk end-user must remit tax due on motor fuel removed
27 at a terminal rack to the supplier of the fuel. The time when a bulk end-user must remit
28 tax to a supplier is governed by the terms of the contract between the supplier and the
29 bulk end-user.

30 (f) End-User. – An end-user must remit tax due on motor fuel removed at a
31 terminal rack to the supplier of the fuel. The time when a user must remit tax to a
32 supplier is governed by the terms of the contract between the supplier and the user.

33 (g) General. – The method by which a distributor, licensed exporter, licensed
34 importer, retailer, bulk end-user, or end-user must remit tax to a supplier is governed by
35 the terms of the contract between the supplier and the distributor, licensed exporter,
36 licensed importer, retailer, bulk end-user, and end-user. G.S. 105-449.76 governs the
37 cancellation of a license of a distributor, an exporter, and an importer."

38 **SECTION 27.** G.S. 105-449.96 reads as rewritten:

39 **"§ 105-449.96. Information required on return filed by supplier.**

40 A return of a supplier must list all of the following information and any other
41 information required by the Secretary:

- 42 (1) The number of gallons of tax-paid motor fuel received by the supplier
43 during the month, sorted by type of fuel.

- (2) The number of gallons of motor fuel removed at a terminal rack during the month from the account of the supplier, sorted by type of fuel.
- (3) The number of gallons of motor fuel removed during the month for export, sorted by type of fuel.
- (4) The number of gallons of motor fuel removed during the month at a terminal located in another state for destination to this State, as indicated on the shipping document for the fuel, sorted by type of fuel.
- (5) The number of gallons of motor fuel the supplier sold during the month to a governmental unit whose use of fuel is exempt from the tax, sorted by type of fuel.
- (6) The amount of discounts allowed under G.S. 105-449.93(b) on motor fuel sold during the month to licensed distributors or licensed importers.
- (7) The number of gallons of motor fuel the supplier exchanged during the month with another licensed supplier pursuant to a two-party exchange agreement, sorted by type of fuel."

SECTION 28. G.S. 105-449.97(c) reads as rewritten:

"(c) Percentage Discount. -- A supplier that sells motor fuel directly to an unlicensed distributor or to the bulk end-user, the retailer, or the user of the fuel may take the same percentage discount on the fuel that a licensed distributor may take under G.S. 105-449.93(b) when making deferred payments of tax to the supplier."

SECTION 29. G.S. 105-449.100 reads as rewritten:

"§ 105-449.100. Terminal operator to file informational return showing changes in amount of motor fuel at the terminal.

(a) Requirement. -- A terminal operator must file a monthly informational return with the Secretary that shows the amount of motor fuel received or removed from the terminal during the month. A terminal operator that is required to be licensed in this State must report all motor fuel removed from out-of-state terminals that has this State as its destination state.

(b) Content. -- The return is due on the same date as a monthly return due under G.S. 105-449.90. The return must contain the following information and any other information required by the Secretary:

- (1) The number of gallons of motor fuel received in inventory at the terminal during the month and each position holder for the fuel, sorted by type of fuel.
- (2) The number of gallons of motor fuel removed from inventory at the terminal during the month and, for each removal, the position holder for the fuel and the destination state of the fuel, sorted by type of fuel.
- (3) The number of gallons of motor fuel gained or lost at the terminal during the month.
- (4) The number of gallons of motor fuel in inventory at the beginning of each month and at the end of each month.

(c) Due Date. – The return is due on the same date as a monthly return due under G.S. 105-449.90."

SECTION 30. G.S. 105-449.102 reads as rewritten:

"§ 105-449.102. Distributor to file return showing exports from a bulk plant.

(a) Requirement. – A distributor that exports motor fuel from a bulk plant located in this State must file a monthly return with the Secretary that shows the exports. The return serves as a claim for refund by the distributor for tax paid to this State on the exported motor fuel.

(b) Content. – The return must contain the following information and any other information required by the Secretary:

(1) The number of gallons of motor fuel exported during the month.

(2) The destination state of the motor fuel exported during the month.

(3) A certification that the distributor has paid to the destination state of the motor fuel exported during the month, or will pay on a timely basis, the amount of tax due that state on the fuel.

(c) Due Date. – The return is due on the same date as a monthly return due under G.S. 105-449.90."

SECTION 31. The prefatory language of G.S. 105-449.105 reads as rewritten:

"§ 105-449.105. Refunds for tax paid on exempt fuel, lost fuel, and accidental mixes that result in fuel unsuitable for highway use."

SECTION 32. G.S. 105-449.105A(a)(1) reads as rewritten:

"(1) The end-user of the kerosene, if the distributor dispenses the kerosene into a storage facility of the end-user that contains fuel used only for one of the following purposes and the storage facility is installed in a manner that makes use of the fuel for any other purpose improbable:

a. Heating.

b. Drying crops.

c. A manufacturing process."

SECTION 33. G.S. 105-449.108(a) reads as rewritten:

"(a) Due Dates. – The due dates of applications for refunds are as follows:

Refund Period	Due Date
Annual	April 15 after the end of the year
Quarterly	Last day of the month after the end of the quarter
Monthly	22nd day after the end of the month
	"

SECTION 34. G.S. 105-449.117(a) reads as rewritten:

"(a) Violation. – It is unlawful to use dyed diesel fuel or other non-tax-paid fuel in a highway vehicle that is licensed or required to be licensed under Chapter 20 of the General Statutes unless that use is allowed under section 4082 of the Code. It is unlawful to use motor fuel or alternative fuel in a highway vehicle that is licensed or required to be licensed under Chapter 20 of the General Statutes unless the tax imposed

1 by this Article, Article 36D, or Chapter 119, Article 3 has been paid. A person who
2 violates this section is guilty of a Class 1 misdemeanor and is liable for a civil penalty."

3 **SECTION 35.** G.S. 105-449.121(b) reads as rewritten:

4 "(b) Inspection. – The Secretary or a person designated by the Secretary may do
5 any of the following to determine tax liability under this Article:

- 6 (1) Audit a person who is required to have or elects to have a license
7 under this Article.
- 8 (2) Audit a distributor, a retailer, a bulk-end user, or a motor fuel user that
9 is not licensed under this Article.
- 10 (3) Examine a tank or other equipment used to make, store, or transport
11 motor fuel, diesel dyes, or diesel markers.
- 12 (4) Take a sample of a product from a vehicle, a tank, or another container
13 in a quantity sufficient to determine the composition of the product.
- 14 (5) Stop a vehicle for the purpose of taking a sample of motor fuel from
15 the vehicle."

16 **SECTION 36.** G.S. 105-449.130 reads as rewritten:

17 **"§ 105-449.130. Definitions.**

18 The following definitions apply in this Article:

- 19 (1) Alternative fuel. – A combustible gas or liquid that can be used to
20 generate power to operate a highway vehicle and that is not subject to
21 tax under Article 36C of this Chapter.
- 22 (1a) Bulk end-user. – A person who maintains storage facilities for
23 alternative fuel and uses part or all of the stored fuel to operate a
24 highway vehicle.
- 25 (2) Highway. – Defined in G.S. 105-449.60.
- 26 (3) Highway vehicle. – Defined in G.S. 105-449.60.
- 27 (4) Motor fuel. – Defined in G.S. 105-449.60.
- 28 (5) Motor fuel rate. – Defined in G.S. 105-449.60.
- 29 (6) Provider of alternative fuel. – A person who does one or more of the
30 following:
 - 31 a. Acquires alternative fuel for sale or delivery to a bulk end-user
32 or a retailer.
 - 33 b. Maintains storage facilities for alternative fuel, part or all of
34 which the person uses or sells to someone other than a bulk
35 end-user or a retailer to operate a highway vehicle.
 - 36 c. Sells alternative fuel and uses part of the fuel acquired for sale
37 to operate a highway vehicle by means of a fuel supply line
38 from the cargo tank of the vehicle to the engine of the vehicle.
 - 39 d. Imports alternative fuel to this State, by a means other than the
40 usual tank or receptacle connected with the engine of a highway
41 vehicle, for use by that person to operate a highway vehicle.
- 42 (7) Retailer. – A person who maintains storage facilities for alternative
43 fuel and who sells the fuel at retail or dispenses the fuel at a retail
44 location to operate a highway vehicle."

1 **SECTION 37.** G.S. 105-449.131 reads as rewritten:

2 **"§ 105-449.131. List of persons who must have a license.**

3 A person may not engage in business in this State as any of the following unless the
4 person has a license issued by the Secretary authorizing the person to engage in that
5 business:

6 (1) A provider of alternative fuel.

7 (2) A bulk end-user.

8 (3) A retailer."

9 **SECTION 38.** G.S. 105-449.133(a) reads as rewritten:

10 "(a) Who Must Have Bond. – The following applicants for a license must file with
11 the Secretary a bond or an irrevocable letter of credit:

12 (1) An alternative fuel provider.

13 (2) A retailer or a bulk end-user that intends to store highway and
14 nonhighway alternative fuel in the same storage facility."

15 **SECTION 39.** G.S. 105-449.137(a) reads as rewritten:

16 "(a) Liability. – A bulk end-user or retailer that stores highway and nonhighway
17 alternative fuel in the same storage facility is liable for the tax imposed by this Article.
18 The tax payable by a bulk end-user or retailer applies when fuel is withdrawn from the
19 storage facility. The alternative fuel provider that sells or delivers alternative fuel is
20 liable for the tax imposed by this Article on all other alternative fuel."

21 **SECTION 40.** G.S. 105-449.138 reads as rewritten:

22 **"§ 105-449.138. Requirements for bulk end-users and retailers.**

23 (a) Informational Return. – A bulk end-user and a retailer must file a quarterly
24 informational return with the Secretary. A quarterly return covers a calendar quarter and
25 is due by the last day of the month that follows the quarter covered by the return.

26 The return must give the following information and any other information required
27 by the Secretary:

28 (1) The amount of alternative fuel received during the quarter.

29 (2) The amount of alternative fuel sold or used during the quarter.

30 (b) Storage. – A bulk end-user or a retailer may store highway and nonhighway
31 alternative fuel in separate storage facilities or in the same storage facility. If highway
32 and nonhighway alternative fuel are stored in separate storage facilities, the facility for
33 the nonhighway fuel must be marked in accordance with the requirements set by G.S.
34 105-449.123 for dyed diesel storage facilities. If highway and nonhighway alternative
35 fuel are stored in the same storage facility, the storage facility must be equipped with
36 separate metering devices for the highway fuel and the nonhighway fuel. If the
37 Secretary determines that a bulk end-user or retailer used or sold alternative fuel to
38 operate a highway vehicle when the fuel was dispensed from a storage facility or
39 through a meter marked for nonhighway use, all fuel delivered into that storage facility
40 is presumed to have been used to operate a highway vehicle."

41 **SECTION 41.** G.S. 105-449.139(c) reads as rewritten:

42 "(c) Lists. – The Secretary must give a list of licensed alternative fuel providers to
43 each licensed bulk end-user and licensed retailer. The Secretary must also give a list of
44 licensed bulk end-users and licensed retailers to each licensed alternative fuel provider.

1 A list must state the name, account number, and business address of each license holder
2 on the list. The Secretary must send an annual update of a list to each license holder, as
3 appropriate."

4 **SECTION 42.** G.S. 119-15 reads as rewritten:

5 **"§ 119-15. Definitions that apply to Article.**

6 The following definitions apply in this Article:

7 (1) Alternative fuel. – Defined in G.S. 105-449.130.

8 (1a) Dyed diesel fuel. – Defined in G.S. 105-449.60.

9 (1b) Dyed diesel fuel distributor. – A person who acquires dyed diesel fuel
10 from either of the following:

11 a. A person who is not required to be licensed under Part 2 of
12 Article 36C of Chapter 105 of the General Statutes and who
13 maintains storage facilities for dyed diesel fuel to be used for
14 nonhighway purposes.

15 b. Another dyed diesel fuel distributor.

16 (2) Gasoline. – Defined in G.S. 105-449.60.

17 (2a) Jet fuel. – Defined in G.S. 105-449.60.

18 (3) Kerosene. – Defined in G.S. 105-449.60.

19 (3a) Kerosene distributor. –A person who acquires kerosene from any of
20 the following for subsequent sale:

21 a. A supplier licensed under Part 2 of Article 36C of Chapter 105
22 of the General Statutes.

23 b. A kerosene supplier.

24 c. Another kerosene distributor.

25 (3b) Kerosene supplier. – Either of the following:

26 a. A person who supplies both kerosene and motor fuel and,
27 consequently, is required to be licensed under Part 2 of Article
28 36C of Chapter 105 of the General Statutes.

29 b. A person who is not required to be licensed as a supplier under
30 Part 2 of Article 36C of Chapter 105 of the General Statutes and
31 who maintains storage facilities for kerosene to be used to fuel
32 an airplane.

33 (4) Motor fuel. – Defined in G.S. 105-449.60.

34 (5) Person. – Defined in G.S. 105-229.90.

35 (6) Terminal. – Defined in G.S. 105-449.60.

36 (7) Terminal operator. – Defined in G.S. 105-449.60."

37 **SECTION 43.** Section 2 and Section 20 of this act become effective January
38 1, 2009. The remainder of this act is effective when it become law.